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approved February 27, 1879 (Acts 1878-9, p. 119), relating to the sale of the property of the James River & Kanawha Canal Company to the Richmond & Alleghany Railroad Company were intended to cover actions to enforce the contract authorized by said act for the transfer of the property of the former company to the latter brought by parties to the contract, or persons directly interested in its enforcement, and has no relation to torts thereafter inflicted by the purchaser of the property or its successors. There is nothing in said act to deprive local courts of jurisdiction over suits for such torts committed within their territorial limits.

2. BRIDGE—*Obligation to maintain—Case at bar.* The obligation to maintain and keep in repair the bridge mentioned in the declaration in this cause arises out of the interference by the James River & Kanawha Canal Company with the highway, and not as a condition on which the franchises were granted that company, and hence is a continuing obligation on the successors of that company so long as such interference continues.

3. BRIDGE IN HIGHWAY—*Private benefit—Obligation to maintain.* Where a bridge in a public highway is rendered necessary by the private use of the highway, and it is built for private benefit, no presumption of acceptance of it by the public to be maintained at public expense arises from its free and open use by the public.

4. NEGLIGENCE—*Fast riding over bridge.* Riding over a bridge faster than a walk, though unlawful, is not negligence *per se*. Whether or not the gait or speed was, in the particular case, negligence, and if so whether it contributed to the injury received on the bridge, are questions for the jury.

5. NEGLIGENCE—*Statutes against fast riding on bridge—Statutes for public safety.* The statute prohibiting persons from riding over a bridge faster than a walk was enacted for the preservation of bridges, and, on questions of negligence, stands on a different footing from the statutes enacted for the public safety.

6. NEGLIGENCE—*Violation of law—Effect on act.* It is not contributory negligence *per se* for the injured party at the time of the injury to be engaged in a violation of the law. Such violation does not put him out of the protection of the law, nor at the mercy of others. But if such violation contributed to his injury, he cannot recover therefor.

7. NEGLIGENCE—*Proximate cause.* Negligence, no matter of what it consists, cannot create a cause of action unless it is the proximate cause of the injury complained of. The two must concur.

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**PAINTER AND OTHERS v. ST. CLAIR AND OTHERS.**—Decided at Richmond, February 8, 1900.—Keith, P:

1. APPEAL AND ERROR — Roads — Injunction — Condemnation proceedings.—Whether or not an act of Assembly authorizing the establishment of public roads, and which allows appeals to this court on questions of law only, is constitutional, does not arise on an appeal from a decree dissolving an injunction to proceedings under the act, as it is not an appeal from any judgment pronounced in condemnation proceedings under the act.

2. EMINENT DOMAIN—*Where resident—How exercised—Restraints—“Due process”*—*Acts 1897–8, p. 97.* The right of eminent domain is incident to sovereignty. It is resident in the legislature, which may exercise it either directly or through such agencies as it may select. The only constitutional restraint upon its exercise is that just compensation shall be made. Its exercise within this limitation is itself “due process of law.” The time, manner, and occasion of its exercise directly or indirectly, within the limitation stated, are within the legislative discretion. The act of Assembly enacting a special road law for Pulaski county (*Acts 1897–8, p. 97*) does not authorize the taking of private property without “due process of law,” and is not unconstitutional on that ground.

3. EMINENT DOMAIN—*Delegation of power—Strictly construed—Case in judgment—Road law.* Acts conferring the power to exercise the right of eminent domain are to be construed strictly, and the manner of executing the authority conferred must be carefully observed and followed. In the case in judgment, involving the execution of the special road law for Pulaski county, this has not been done. The supervisors of the county are *ex officio* members of the road commission, and no further qualification of them is required, but the road commission which established the road was not constituted as required by the act. A part of the commission from Pulaski district being disqualified, the whole commission, and not merely a part thereof, should have been taken from an adjacent district.